

**Senate File 387 - Reprinted**

SENATE FILE 387  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO SSB 1092)

(As Amended and Passed by the Senate March 20, 2013)

**A BILL FOR**

1 An Act relating to a city's authority to issue debt, including  
2 authorization to use city reserve funds as a loan payable  
3 from the debt service fund for certain general obligation  
4 bond projects.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 384.4, subsection 1, Code 2013, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *f.* Payments of principal and interest on  
4 loans entered into pursuant to section 384.24B and authorized  
5 for repayment by the council from the debt service fund.

6 Sec. 2. NEW SECTION. **384.24B General obligation loans**  
7 **funded by the city.**

8 1. A city may authorize a loan, as defined in this section,  
9 to borrow money for any general corporate purpose or essential  
10 corporate purpose in accordance with and subject to the  
11 provisions of this section.

12 2. *a.* For purposes of this section, "*loan*" means the  
13 sum of the transfers from the surplus of one or more reserve  
14 accounts or funds of the city which transfers are authorized  
15 for the purpose specified in the loan authorization document.  
16 A transfer from a reserve account or fund for the purposes of  
17 this section shall not cause the balance of reserves in such  
18 account or fund at the close of the fiscal year following the  
19 fiscal year in which the transfer is made to fall below any  
20 minimum balance prescribed by law for such account or fund.  
21 For the purposes of this section, "*reserve account or fund*"  
22 means moneys held by a city that are not operating funds, as  
23 defined in section 12B.10A, and which is authorized by law to  
24 receive interest pursuant to section 12C.7.

25 *b.* A loan to finance a general obligation bond project  
26 under this section shall not result in a user fee, rate, or  
27 property tax increase to support the annual operations of the  
28 account or fund from which the loan is made, as a result of  
29 the unavailability of the surplus funds. For the purposes of  
30 this section, "*surplus*" means the cash balance available in  
31 any account or fund from which a loan will be made under this  
32 section which exceeds the amount of expenses or disbursements  
33 made from the account or fund in the previous three months,  
34 plus the amount of transfers, payments, or disbursements  
35 required in the following three months.

1     3. *a.* A loan entered into by a city pursuant to this  
2 section may contain provisions similar to those found in loan  
3 agreements between private parties, including but not limited  
4 to the issuance of notes to evidence its obligations. The  
5 terms of each loan shall require repayment of the loan within  
6 ninety days to the extent necessary to prevent a user fee,  
7 rate, or property tax increase which raises the user fees,  
8 rates, or property taxes payable into the account or fund from  
9 which the loan is made above the level in effect at the time a  
10 loan under this section is authorized.

11    *b.* A loan authorized pursuant to this section shall  
12 constitute an indebtedness within the meaning of any  
13 constitutional debt limitation and shall be reported by the  
14 city to the state treasurer in the same manner as required  
15 for bonding activities pursuant to section 12.1. The full  
16 or partial refunding of any loan under this section shall  
17 be authorized as an essential corporate purpose pursuant to  
18 section 384.24, subsection 3, paragraph "f".

19     4. A loan made pursuant to this section is payable from the  
20 debt service fund of the city. The governing body shall follow  
21 the same authorization procedures required for the issuance  
22 of general obligation bonds issued for the same purpose to  
23 authorize a loan made payable from the debt service fund.  
24 Upon approval of a loan, the loan shall be accounted for in  
25 accordance with section 384.20.

26     5. A loan made pursuant to this section shall include  
27 provisions establishing an interest rate on the loan that shall  
28 be set at a rate that is between the interest rate established  
29 pursuant to section 12C.6, subsection 2, paragraph "a", and the  
30 interest rate established pursuant to section 74A.6, subsection  
31 2.

32     6. Repayments of principal and interest shall be paid to  
33 the reserve fund or account from which all or a portion of the  
34 funds were advanced for the loan in the proportion that the  
35 amount of the advance from the fund or account bears to the

1 entire amount of the loan.

2 7. The limitation in section 346.24 does not apply to a  
3 transfer made pursuant to this section or to a loan authorized  
4 pursuant to this section.

5 8. A loan made pursuant to this section shall not include  
6 any transfers or obligations from the reserve fund or account  
7 of a city utility or of a combined city utility.

8 9. The powers granted under this section shall not be  
9 construed as a limitation of the existing powers of a city.

10 Sec. 3. Section 384.25, Code 2013, is amended to read as  
11 follows:

12 **384.25 General obligation bonds or loans for essential**  
13 **purposes.**

14 1. A city which proposes to carry out any essential  
15 corporate purpose within or without its corporate limits, and  
16 to contract indebtedness and issue general obligation bonds or  
17 authorize a loan described in section 384.24B, to provide funds  
18 to pay all or any part of the cost of a project must do so in  
19 accordance with the provisions of this division.

20 2. Before the council may institute proceedings for the  
21 issuance of bonds or authorization of a loan for an essential  
22 corporate purpose, a notice of the proposed action, including  
23 a statement of the amount and purposes of the bonds or loan,  
24 and the time and place of the meeting at which the council  
25 proposes to take action for the issuance of the bonds or  
26 authorization of the loan, must be published as provided in  
27 section 362.3. At the meeting, the council shall receive oral  
28 or written objections from any resident or property owner  
29 of the city. After all objections have been received and  
30 considered, the council may, at that meeting or any adjournment  
31 thereof, take additional action for the issuance of the bonds  
32 or authorization of the loan or abandon the proposal to issue  
33 the bonds or authorize the loan. Any resident or property  
34 owner of the city may appeal the decision of the council to  
35 take additional action to the district court of the county in

1 which any part of the city is located, within fifteen days  
2 after the additional action is taken, but the additional action  
3 of the council is final and conclusive unless the court finds  
4 that the council exceeded its authority. The provisions of  
5 this subsection with respect to notice, hearing, and appeal,  
6 are in lieu of the provisions contained in chapter 73A, or any  
7 other law.

8     3. a. Notwithstanding subsection 2, a council may institute  
9 proceedings for the issuance of bonds or the authorization of a  
10 loan for an essential corporate purpose specified in section  
11 384.24, subsection 3, paragraph "w" or "x", in an amount equal  
12 to or greater than three million dollars by causing a notice  
13 of the proposal to issue the bonds or authorize the loan,  
14 including a statement of the amount and purpose of the bonds  
15 or loan, together with the maximum rate of interest which the  
16 bonds are to bear or which will be charged to the principal  
17 balance of the loan, and the right to petition for an election,  
18 to be published at least once in a newspaper of general  
19 circulation within the city at least ten days prior to the  
20 meeting at which it is proposed to take action for the issuance  
21 of the bonds or the authorization of the loan.

22     b. If at any time before the date fixed for taking action  
23 for the issuance of the bonds or the authorization of the  
24 loan, a petition is filed with the clerk of the city signed  
25 by eligible electors of the city equal in number to twenty  
26 percent of the persons in the city who voted for the office of  
27 president of the United States at the last preceding general  
28 election that had such office on the ballot, asking that the  
29 question of issuing the bonds or authorizing the loan be  
30 submitted to the registered voters of the city, the council  
31 shall either by resolution declare the proposal to issue the  
32 bonds or authorize the loan to have been abandoned or shall  
33 direct the county commissioner of elections to call a special  
34 election upon the question of issuing the bonds or authorizing  
35 the loan. Notice of the election and its conduct shall be in

1 the manner provided in section 384.26.

2     *c.* If a petition is not filed, or if a petition is filed and  
3 the proposition of issuing the bonds or authorizing the loan  
4 is approved at an election, the council may proceed with the  
5 authorization and issuance of the bonds or authorization of the  
6 loan.

7     Sec. 4. Section 384.26, subsections 1, 2, 4, and 5, Code  
8 2013, are amended to read as follows:

9     1. A city which proposes to carry out any general corporate  
10 purpose within or without its corporate limits, and to contract  
11 indebtedness and issue general obligation bonds or authorize a  
12 loan described in section 384.24B, to provide funds to pay all  
13 or any part of the costs of a project, must do so in accordance  
14 with the provisions of this division.

15     2. Before the council may institute proceedings for the  
16 issuance of bonds or authorization of a loan for a general  
17 corporate purpose, it shall call a special city election to  
18 vote upon the question of issuing the bonds or authorizing the  
19 loan. At the election the proposition must be submitted in one  
20 of the following form forms, as applicable:

21     Shall the ..... (insert the name of the city) issue  
22 its bonds in an amount not exceeding the amount of \$.... for  
23 the purpose of .....?

24     Shall the ..... (insert the name of the city) authorize  
25 a loan from its surplus funds in an amount not exceeding the  
26 amount of \$.... for the purpose of .....?

27     4. The proposition of issuing general corporate purpose  
28 bonds or authorizing a loan for a general corporate purpose  
29 is not carried or adopted unless the vote in favor of the  
30 proposition is equal to at least sixty percent of the total  
31 vote cast for and against the proposition at the election.  
32 If the proposition of issuing the general corporate purpose  
33 bonds or authorizing a loan for a general corporate purpose is  
34 approved by the voters, the city may proceed with the issuance  
35 of the bonds or authorization of the loan.

1     5. *a.* Notwithstanding the provisions of subsection 2,  
2 a council may, in lieu of calling an election, institute  
3 proceedings for the issuance of bonds or authorization of a  
4 loan for a general corporate purpose by causing a notice of the  
5 proposal to issue the bonds or authorize the loan, including  
6 a statement of the amount and purpose of the bonds or loan,  
7 together with the maximum rate of interest which the bonds are  
8 to bear or which the loan is to bear, and the right to petition  
9 for an election, to be published at least once in a newspaper  
10 of general circulation within the city at least ten days prior  
11 to the meeting at which it is proposed to take action for the  
12 issuance of the bonds or authorization of the loan subject to  
13 the following limitations:

14     (1) In cities having a population of five thousand or less,  
15 in an amount of not more than four hundred thousand dollars.

16     (2) In cities having a population of more than five thousand  
17 and not more than seventy-five thousand, in an amount of not  
18 more than seven hundred thousand dollars.

19     (3) In cities having a population in excess of seventy-five  
20 thousand, in an amount of not more than one million dollars.

21     *b.* If at any time before the date fixed for taking action  
22 for the issuance of the bonds or the authorization of the  
23 loan, a petition is filed with the clerk of the city in the  
24 manner provided by section 362.4, asking that the question  
25 of issuing the bonds or authorizing the loan be submitted to  
26 the registered voters of the city, the council shall either by  
27 resolution declare the proposal to issue the bonds or authorize  
28 the loan to have been abandoned or shall direct the county  
29 commissioner of elections to call a special election upon the  
30 question of issuing the bonds or authorizing the loan. Notice  
31 of the election and its conduct shall be in the manner provided  
32 in the preceding subsections of this section.

33     *c.* If no petition is filed, or if a petition is filed and  
34 the proposition of issuing the bonds or authorizing the loan  
35 is approved at an election, the council may proceed with the

1 authorization and issuance of the bonds or the authorization  
2 of the loan.

3     Sec. 5. Section 384.33, Code 2013, is amended to read as  
4 follows:

5     **384.33 Action.**

6     No action may be brought which questions the legality of  
7 general obligation bonds, notes, or loans under this chapter or  
8 the power of the city to issue the bonds, notes or loans or the  
9 effectiveness of any proceedings relating to the authorization  
10 and issuance of the bonds, notes, or loans from and after sixty  
11 days from the time the bonds, notes or loans are ordered issued  
12 by the city.